

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

GREGORY TRICE,

Case No. 14-cv-1451

Plaintiff,

vs.

ENHANCED RECOVERY COMPANY,
LLC,

Defendant.

COMPLAINT

NOW COMES Plaintiff Gregory Trice, by and through his attorneys, DeLadurantey Law Office, LLC, and complains of Defendant Enhanced Recovery Company, LLC and alleges to the best of his knowledge, information and belief formed after an inquiry reasonable under the circumstances, the following:

INTRODUCTION

Nature of the Action

1. This lawsuit arises from the collection attempts of the Defendant.
2. Causes of Action herein are brought under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq*, and the Wisconsin Consumer Act ("WCA"), Wis. Stat. 421 *et seq*.

Jurisdiction and Venue

3. Jurisdiction of this Court arises under 28 U.S.C. § 1331, because the case arises under the laws of the United States. This Court also has jurisdiction pursuant to 15 U.S.C. §

1692k(d), as it is an action to enforce liability created by the FDCPA within one year from the date on which the violation occurred.

4. This Court has supplemental jurisdiction over the claims arising under the Wisconsin Consumer Act under 28 U.S.C. §1367, because the Wisconsin Consumer Act claims are related to the FDCPA claims as they arise under the same set of facts, becoming part of the same case or controversy under Article III of the United States Constitution.

5. Venue in this Court is appropriate pursuant to 28 U.S.C. § 1391(b)(2), because this is where the acts giving rise to the claim occurred.

6. Under 28 U.S.C. § 1391(c), a defendant corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction. Defendant conducts business in Wisconsin and is therefore subject to personal jurisdiction in Wisconsin.

Parties

7. Plaintiff Gregory Trice (hereinafter “Mr. Trice”) is a natural person who resides in the City of Milwaukee, County of Milwaukee, State of Wisconsin.

8. Defendant Enhanced Recovery Company, LLC (hereinafter “Defendant Enhanced Recovery”) is foreign business with a principal office of 8014 Bayberry Road, Jacksonville, FL 32256, and a registered agent of Corporation Service Company, 380 Jackson Street, Suite 700, St Paul, MN 55101.

Factual Allegations

9. On October 27, 2014, Mr. Trice obtained a copy of his credit report from Experian.

10. The report shows that Defendant Enhanced Recovery is reporting an open account for “Time Warner Cable,” with a past balance of \$117.

11. Mr. Trice has not had cable since the 1980s.
12. If this is his account, he has not made a payment on this account in over six years.
13. This debt is past the applicable statute of limitations of six years as set forth in Wis. Stat. 893.43.

Count 1 – Violations of the Fair Debt Collection Practices Act (15 U.S.C. §1692)

14. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

15. Defendant Enhanced Recovery is a debt collector as defined by 15 U.S.C. §1692a(6).

16. Mr. Trice is a “consumer” as defined by 15 U.S.C. §1692a(3).

17. The foregoing acts of Defendant Enhanced Recovery and its agents constitute numerous and multiple violations of the FDCPA including, but not limited to, 15 U.S.C. §§ 1692d, 1692e, 1692e(2), 1692e(8), 1692e(10), 1692f, and 1692f(1), with respect to the Plaintiff.

18. Specifically, it is false and misleading for Defendant Enhanced Recovery to report to the Consumer Reporting Agencies that it has a right to collect a debt that is either not the Plaintiff’s debt or is barred by the applicable statute of limitations.

19. As a result of the Defendant’s illegal conduct, Mr. Trice has suffered emotional distress, mental anguish, and reduced access to credit.

20. Plaintiff is entitled to actual damages pursuant to 15 U.S.C. §1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A); and, reasonable attorney’s fees and costs pursuant to 15 U.S.C. §1692k(a)(3).

Count 2 – Violations of the Wisconsin Consumer Act (Wis. Stat. § 427.104(c))

21. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

22. The amount that the Defendant was attempting to collect constitutes a “claim” as that term is defined at Wis. Stat. § 427.103(1).

23. Defendant’s conduct violated 427.104(1)(c) in that the Defendant’s conduct as described herein could reasonably be expected to harm the Plaintiff’s credit worthiness by reporting to the Consumer Reporting Agencies that it has a right to collect a debt that is either not the Plaintiff’s debt or is barred by the applicable statute of limitations.

24. As a result of the Defendant’s illegal conduct, Mr. Trice has suffered emotional distress, mental anguish, and reduced access to credit.

25. The Defendant is liable to Mr. Trice for actual damages, statutory damages, punitive damages (if the evidence at trial so warrants), actual costs, and attorneys’ fees, under Wis. Stat. § 427.105.

Trial by Jury

26. Plaintiff is entitled to, and hereby respectfully demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Mr. Trice prays that judgment be entered against the Defendant for:

- A. Actual damages in an amount to be determined at trial pursuant to 15 U.S.C. § 1692k(a)(1);
- B. Statutory damages of \$1,000 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- C. Costs and reasonable attorneys’ fees pursuant to 15 U.S.C. § 1692k(a)(3);
- D. Actual and statutory damages pursuant to Wis. Stat. §427 *et al.*;
- E. Costs and reasonable attorneys’ fees pursuant to Wis. Stat. §425.308;

- F. For an injunction, stopping the Defendant from reporting the false information;
and
- G. Other and further relief as may be just and proper.

Dated this 18th day of November, 2014.

DeLadurantey Law Office, LLC

s/ Nathan E. DeLadurantey

Nathan E. DeLadurantey (WI# 1063937)

Heidi N. Miller (WI# 1087696)

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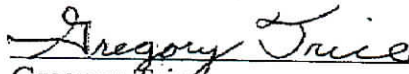
Heidi@de-la-law.com

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF WISCONSIN)
) ss
COUNTY OF MILWAUKEE)


Plaintiff Gregory Trice, having first been duly sworn and upon oath, deposes and says as follows:

1. I am a Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified, or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.



Gregory Trice

Subscribed and sworn to before me
this 17 day of November, 2014.



Notary Public
My commission expires:

